

FILED

APR 25 2018

U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES GUCCIONE,

Defendant.

4:18CR342 RWS/SPM

INDICTMENT

COUNTS I-IV (WIRE FRAUD)

The Grand Jury charges that:

Introduction

1. Between on or about July 25, 2012 and continuing through on or about May 12, 2016 (the "relevant time period"), Defendant James Guccione was a resident of St. Louis County within the Eastern District of Missouri.
2. During the relevant time period, Defendant James Guccione was employed as the Director of Finance of K.M., a business with its principal offices in St. Louis County within the Eastern District of Missouri (the "company" or the "business").
3. As Director of Finance, Defendant was entrusted with the authority to direct payments of the company for necessary expenses, to group items in batches for approval and payment and to categorize various payments on company records.

The Scheme

4. At some point before July 25, 2012, the Defendant devised a scheme to defraud the company of money and other valuable property by means of false and fraudulent pretenses, representations and promises. Specifically, the Defendant falsely represented to the company that computer hardware and software Defendant had ordered for his own benefit was for company use when in truth and fact it was not as Defendant well knew. Defendant thereby caused payments of company funds to be made to company vendors by means of interstate wire communications to cover purchases ordered by Defendant for his own benefit.
5. It was a part of the scheme that Defendant altered invoices for software and hardware intended for Defendant's personal use and benefit before submitting them for payment by the company.
6. It was a further part of the scheme that Defendant deceived his co-workers at the company about the nature and intended use of software and hardware he was purchasing with company funds for his own use and benefit so that secondary approval for various financial transactions made in furtherance of the scheme could be obtained.
7. It was a further part of the scheme that Defendant, during the relevant time period, caused direct financial payments from company accounts to his personal financial account while noting the payment was to longstanding vendors of the company.
8. It was a further part of the scheme that Defendant hid the company's payments for the aforementioned software and hardware in different accounts including those for "credit insurance" and "equipment maintenance" in an attempt to avoid the detection of his scheme.

9. It was a further part of the scheme that Defendant often mixed legitimate purchases in with illegitimate purchases in a lot of expenses which were approved and funded all at once in an attempt to avoid the detection of his scheme.
10. The stolen hardware included servers, computers, keyboards, tablets and other items not typically used by the company and which were never inventoried by the company. Presumably, Defendant took these items directly for his personal use or to resell.
11. In all, Defendant defrauded the company of more than \$200,000 through this scheme.

The Offense Conduct

12. Between on or about July 25, 2012 and continuing through May 12, 2016 in St. Louis County within the Eastern District of Missouri and elsewhere,

JAMES GUCCIONE,

the Defendant herein did knowingly and intentionally devise a scheme to defraud and to obtain money and valuable property from the company by means of false and fraudulent representations, promises and pretenses and, in furtherance and execution thereof, did send and cause to be sent the following interstate transfers of company funds from the State of Missouri with each transfer constituting a separate count.

Count	Date	Payee	Amount	Item Purchased
I	September 18, 2015	CDW	\$3,277.82	MS VISUAL STUDIO PRO
II	September 30, 2015	CDW	\$2,573.98	2 MS Surface Pro Tablets
III	December 3, 2015	CDW	\$2,819.51	Microsoft SQL Server
IV	March 10, 2016	CDW	\$1,366.19	Mac Book Pro 13.3"

All in violation of Title 18, United States Code Section 1343.

COUNT V (MAIL FRAUD)

13. The allegations contained in paragraphs 1 through 12 are hereby realleged and incorporated by reference.

14. On or about February 28, 2014, in St. Louis County within the Eastern District of Missouri and elsewhere,

JAMES GUCCIONE,

did knowingly and intentionally devise a scheme to defraud and to obtain money and valuable property from the company by means of false and fraudulent representations, promises and pretenses and, in furtherance and execution thereof, did send and cause to be sent and delivered material through the United States Postal Service, to wit: a \$724.99 payment from the company to Staples for a Samsung Smart TV converted by Defendant for his personal use.

In violation of Title 18, United States Code Section 1341.

FORFEITURE ALLEGATION

The Grand Jury further finds by probable cause that:

1. Pursuant to Title 18, United States Code, Sections 981(a) and Title 28, United States Code, Section 2461(c), upon conviction of an offense in violation of Title 18, United States Code, Section 1343 as set forth in Counts I through IV, or Section 1341 as set forth in Count V, the defendant shall forfeit to the United States of America any property, real or personal, constituting or derived from any proceeds traceable to such violation(s).

2. Subject to forfeiture is a sum of money equal to the total value of any property, real or personal, constituting or derived from any proceeds traceable to such violation(s).

4. If any of the property described above, as a result of any act or omission of the defendant:

JAMES GUCCIONE,

did knowingly and intentionally devise a scheme to defraud and to obtain money and valuable property from the company by means of false and fraudulent representations, promises and pretenses and, in furtherance and execution thereof, did send and cause to be sent and delivered material through the United States Postal Service, to wit: a \$724.99 payment from the company to Staples for a Samsung Smart TV converted by Defendant for his personal use.

In violation of Title 18, United States Code Section 1341.

A TRUE BILL.

FOREPERSON

JEFFREY B. JENSEN
United States Attorney

Thomas C. Albus, #96250
Assistant United States Attorney